



Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12VAC5-510
Regulation title	Guidelines for General Assembly Nursing Scholarships
Action title	Amendments to establish a more comprehensive and up-to-date regulatory framework for administering the nursing scholarship program.
Date this document prepared	November 18, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

Amendments are being proposed to add sections pertaining to the administration of this program. These include sections pertaining to definitions, contract terms, reporting requirements, breach of contract, and waiver provisions. The new sections are comparable in nature and wording to regulations for similar programs and congruent with relevant sections of the *Code of Virginia*.

The Nursing Scholarship Program has been in existence for over twenty years. Although the field of nursing has evolved since that time, the regulations have not kept up with these changes. Amendments are being proposed to ensure that this program is consistent with how the industry has evolved over time. This includes more realistic expectations pertaining to the length of time required to find full time employment upon graduation and changes to the definition of full time employment to be consistent with industry standards.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

N/A

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-3011.1 authorizes the collection of up to \$1 in licensure and license renewal fees for every practical nurse and registered nurse to be deposited in a Nursing Scholarship and Loan Repayment Fund.

Section 54.1-3011.2 establishes the Nursing Scholarship and Loan Repayment Fund for the purpose of financing scholarships for part-time and full-time students enrolled in or accepted for enrollment by nursing programs and gives the Board of Health authority to administer and award such funds.

Section 32.1-122.6.01 authorizes the Board of Health to award scholarships available through the Nursing Scholarship and Loan Repayment Fund.

Sections 23-35.9 through 23-35.13 further define some of the procedures for administering the scholarships including the composition of the Advisory Committee to the State Board of Health, the basis for awards, the requirement for a written contract and contract provisions, provisions for renewal of awards, and definition of how payments should be made.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The Virginia Department of Health administers the Nursing Scholarship program, which provides annual nursing scholarships for students enrolled part-time and/or full-time in undergraduate and graduate nursing programs. Selected recipients agree to promptly begin and thereafter engage continuously in nursing practice in the Commonwealth in a region with a critical shortage of nurses for a duration of time based on the total amount of scholarship awarded.

Regulations for other similar scholarship programs are more comprehensive and include sections governing the administration of the program. A more comprehensive set of regulations for the administration of this program is essential for improving the efficacy of the program.

Additionally, the Nursing Scholarship Program has been in existence for over 20 years. Although the field of nursing has evolved since that time, the regulations have not kept up with these changes. Updates to the regulations are needed to ensure their relevance.

The intent of this program is to address the shortage of trained medical professionals in the Commonwealth. The primary advantage to improving the administration of this program would be to increase the availability of adequate, quality medical providers in Virginia.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

Amendments are being proposed to add a section pertaining to the definitions of terms used in the regulations and to provide more clarity about the residency requirement for eligibility. Sections are also being added to provide administrative guidance regarding the terms of service for the contract, the reporting requirements for scholarship recipients, the conditions that would lead to a breach of contract and the consequences for such a breach, and waiver provisions. The waiver provisions allow for flexibility within the program in situations where the recipient and his/her family encounter hardship, disability, or death.

The Nursing Scholarship Program has been in existence for over twenty years. Although the field of nursing has evolved since that time, the regulations have not kept up with these changes. Amendments are being proposed to ensure that this program is consistent with how the industry has evolved over time. This includes more realistic expectations pertaining to the length of time required to find full time employment upon graduation. The recipient of a scholarship currently has 60 days after graduation to report on the status of full-time employment in the state. This time frame is not consistent with the time frame needed to take the licensure exam, receive a license and seek and find full time employment. The proposed amendment would allow the recipient up to 180 days after graduation before being required to report on the status of full-time or part-time employment in the state. Finally, amendments are being proposed to change the definition of full time employment from 40 hours per week to 32 or more hours per week to be consistent with industry standards.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

- 1) The public will have a better understanding of how the scholarship program is administered.
- 2) The agency administering the program will have better direction for administering the program if these amendments are made.
- 3) The recipients of the scholarship and their families will benefit because the regulations will include more clarity pertaining to their obligations and include provisions for waivers in situations of hardship, disability, and death.

There are no known disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable

federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

No requirements within this proposal are more restrictive than applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality will be disproportionately affected by the regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email or fax to Health Workforce Manager, Office of Minority Health and Health Equity, P.O. Box 2448, Richmond, VA 23218-2448; (804) 864-74440 or incentiveprograms@vdh.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	The proposed amendments are not expected to have a cost impact to the state.
Projected cost of the new regulations or changes to existing regulations on localities.	The proposed amendments are not expected to have a cost impact to localities.
Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.	Changes to the existing regulations will allow the agency administering the program to have better direction for administering the program. Additionally, the changes will allow the recipients of

	<p>the scholarship and their families to have the benefit of greater clarity pertaining to their obligations and will also include provisions for waivers in situations of hardship, disability, and death.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The proposed amendments are not expected to have a direct affect on small businesses.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>The proposed amendments are not expected to have an effect on costs.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Beneficial impacts include:</p> <ol style="list-style-type: none"> 1) The public will have a better understanding of how the scholarship program is administered because essential sections will be added to the regulations and thus made available to the public. 2) The agency administering the program will have better direction for administering the program if these amendments are made. 3) The recipients of the scholarship and their families will benefit because the proposed regulations will include more clarity pertaining to their obligations and include provisions for waivers in situations of hardship, disability, and death.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The Virginia Department of Health sees no viable alternative for achieving the purpose of the existing regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The Virginia Department of Health sees no viable alternative for achieving the purpose of the existing regulation. These regulations are not expected to adversely impact health, safety, environmental and economic welfare, or small business.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

No public comment was received.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation would have a positive, although perhaps indirect, impact on the institution of the family and family stability. Improving the efficacy and efficiency of the administration of this program will ultimately benefit nursing students by helping them with their educational expenses and by helping them save disposable family income. This may lead to increases in potential earnings for the future. Additionally, having a more defined set of guidelines pertaining to this program would give its potential recipients better information to make an informed decision regarding participation in the program. Finally, including waiver provisions in cases of hardship would be beneficial to individuals and their families when they encounter unanticipated hardship situations, such as extended illnesses or disabilities.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12VAC5-510-10		The Advisory Committee will make awards with due regard to scholastic attainment, financial need, character, and adaptability to the nursing profession.	Added a section stating that the Advisory Committee would also take into consideration equitable distribution of awards among various congressional districts where practical to be consistent with the <i>Code of Virginia</i> ..
12VAC5-510-20		To be eligible for the program, the applicant must be a “bona fide resident of the State of Virginia for at least one year.”	Clarify the meaning of “bona fide resident” to be consistent with the <i>Code of Virginia</i> . The <i>Code of Virginia</i> defines “bona fide resident” in relationship to eligibility requirements for in-state tuition charges.
12VAC5-510-20		To be eligible, students must be enrolled in a school of nursing in the Commonwealth of Virginia, with the exception of students pursuing graduate degrees not offered in the Commonwealth.	Deleted the exception clause for students pursuing graduate degrees not offered in the Commonwealth because there are no longer any graduate degrees for nurses that are not offered in the Commonwealth.
12VAC5-510-30		The recipient must agree to engage in full-time (40 hours per week) nursing practice in the Commonwealth	Change the requirement of 40 hours to 32 or more hours to be consistent with the current industry standards. The <i>Code</i> does not reference the number of hours but simply states that the recipient must agree to promptly begin and thereafter engage continuously in nursing practice in the Commonwealth in a region with a critical shortage of nurses for a duration of time based on the total amount of scholarship awarded.
12VAC5-510-30		Full time employment must begin within 60 days of the recipient’s graduation date.	Change the requirement for when employment must begin from 60 days from the date of graduation to 180 days from the date of graduation. This allows the recipient up to 90 days to obtain his/her license and up to an additional 90 days to seek and find

			employment. This change would reflect a much more realistic expectation for a new graduate from a nursing program in today's market.
12VAC5-510-40		No student shall receive scholarships for more than a total of five years.	Change the maximum number of scholarship from five years to four years. There are conflicting sections in the <i>Code of Virginia</i> pertaining to this program. In one section, the maximum number of awards is five (§ 23-35.12). However, in another section, the maximum amount is four (§ 32.1-122.6:01; . This change was made to be ensure congruence with all sections of the <i>Code of Virginia</i> .

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
12VAC5-510-15	This section would define the key terms found throughout the regulation to include the definition for the practice of nursing as applicable to this program.		Defining these terms provides clarification and would help ensure that the program runs smoothly. The definitions will reflect the current industry standards.
12VAC5-510-80	This section would define the terms of service for the scholarship contract. Specific components of the terms of contract include obligations and time frames pertaining to service, education and employment.	§ 23-35.11	This section not only reiterates language regarding the contract found in the <i>Code</i> , but provides greater detail regarding the structure and content of the contract. Better defining the terms of the contract would give its potential recipients better information to make an informed decision regarding participation in the program. This section also provides for conditions upon which a recipient may terminate contract. This provision emulates the language found in contracts for similar programs.
12VAC5-510-90	Establishes reporting requirements that the scholarship recipient will follow to ensure that the recipient is in compliance with program guidance.		The reporting requirements will provide the framework for program administration, ensuring that scholarship recipients are in compliance. Knowing these requirements would give its potential recipients better information to make an informed decision regarding participation in the program.
12VAC5-510-100	Provides information concerning what constitutes a breach of contract and the consequences for a recipient in the event of a breach of		Program recipients and administrators will have a better understanding of what constitutes a breach of contract and the consequences of such a

	contract.		breach. Knowing these requirements would give its potential recipients better information to make an informed decision regarding participation in the program.
12VAC5-510-110	Establishes situations where recipients may be given a waiver of their obligations. Cases include the desire to obtain a graduate degree, hardship, disability, and death. The waiver process allows the program to have some flexibility to reduce the likelihood of adverse impacts of the program on families.		Currently there are no waiver provisions and recipients who encounter hardship and cannot fulfill their obligations automatically go into default status. The program will be more flexible and work with recipients and their families to allow them to defer repayment obligations and/or waive requirements of the contract in the event of unanticipated life events such as disability and death.